

## PATENT COOPERATION TREATY

PCT

## NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Assistant Commissioner for Patents  
United States Patent and Trademark  
Office  
Box PCT  
Washington, D.C.20231  
ÉTATS-UNIS D'AMÉRIQUE

in its capacity as elected Office

<b>Date of mailing (day/month/year)</b> 09 December 1999 (09.12.99)	
<b>International application No.</b> PCT/US99/09076	<b>Applicant's or agent's file reference</b> 16303-70PC
<b>International filing date (day/month/year)</b> 27 April 1999 (27.04.99)	<b>Priority date (day/month/year)</b> 28 April 1998 (28.04.98)
<b>Applicant</b> CHEN, Tao et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:

23 November 1999 (23.11.99)

☐ in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was

☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

<p>The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No.: (41-22) 740.14.35</p>	<p>Authorized officer</p> <p>Diana Nissen</p> <p>Telephone No.: (41-22) 338.83.38</p>
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## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 16303-70PC	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US99/09076	International filing date (day/month/year) 27/04/1999	Priority date (day/month/year) 28/04/1998
International Patent Classification (IPC) or national classification and IPC C08F8/32		
Applicant INEX PHARMACEUTICALS CORPORATION et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 4 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand  23/11/1999	Date of completion of this report  25.02.2000
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer  Knutzen-Mies, K  Telephone No. +49 89 2399 8525 

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/US99/09076

**I. Basis of the report**

1. This report has been drawn on the basis of (*substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.*):

**Description, pages:**

1-40 as originally filed

**Claims, No.:**

1-46 as originally filed

**Drawings, sheets:**

1/14-14/14 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/US99/09076

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes:	Claims	1-46
	No:	Claims	
Inventive step (IS)	Yes:	Claims	1-46
	No:	Claims	
Industrial applicability (IA)	Yes:	Claims	1-46
	No:	Claims	

**2. Citations and explanations**

**see separate sheet**

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/US99/09076

**ad section V.:**

None of the documents cited in the international search report discloses or fairly suggests a compound of the general formula according to claim 1, a pH-sensitive liposome containing said compound and a method for delivering a therapeutic compound by using said liposome as claimed in the present application.

The subject matter of claims 1 - 46 is therefore at present considered to fulfil the requirements of Article 33(2) - (4) PCT.

**ad section VIII.:**

According to page 10, lines 4, 12, 13 and 25 of the description and taking into account the general teaching of the application (eg the worked examples), it appears to be an essential feature of the invention that at least one of  $R^1$  and  $R^3$  of the formula of claim 1 is a ligand as defined on page 7, lines 21 - 27 (Article 6 PCT).

The subject matter of claims 2, 4, 5, 7 - 12, 15, 23 - 26, 28 - 31, 33, 35 - 37, 39 - 46 has no clear and explicit counterpart in the description (Article 6 PCT).